

ARKANSAS SUPREME COURT

No. CR 90-140

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered March 9, 2006

ROBERT SHERMAN ROBINSON
Petitioner

PRO SE PETITION TO REINVEST JURISDICTION
IN THE TRIAL COURT TO CONSIDER A
PETITION FOR WRIT OF ERROR *CORAM NOBIS*
[CIRCUIT COURT OF PULASKI COUNTY, CR 89-
2109]

v.

STATE OF ARKANSAS
Respondent

PETITION DENIED

PER CURIAM

In 1990, Robert Sherman Robinson was found guilty of aggravated robbery, theft of property, and theft by receiving. An aggregate term of 155 years' imprisonment was imposed. We affirmed. *Robinson v. State*, 303 Ark. 351, 797 S.W.2d 425 (1990).

Robinson subsequently filed a petition for postconviction relief in the trial court that was denied.¹ We affirmed the order. *Robinson v. State*, CR 97-403 (Ark. May 28, 1998) (*per curiam*).

On February 9, 2006, Robinson, proceeding *pro se*, filed the instant petition in this court asking that jurisdiction be reinvested in the trial court to consider a petition for writ of error *coram nobis*. The petition for leave to proceed in the trial court was necessary because the circuit court can entertain a petition for writ of error *coram nobis* after a judgment has been affirmed on appeal only after we grant permission. *Dansby v. State*, 343 Ark. 635, 37 S.W.3d 599 (2001) (*per curiam*).

A writ of error *coram nobis* is an extraordinarily rare remedy, more known for its denial than its approval. *Larimore v. State*, 341 Ark. 397, 17 S.W.3d 87 (2000). The writ is allowed only under compelling circumstances to achieve justice and to address errors of the most fundamental nature.

¹When petitioner was convicted in 1990, this state's postconviction remedy was encompassed in Criminal Procedure Rule 36.4. Rule 36.4 was later abolished and Criminal Procedure Rule 37 was reinstated in a revised form on January 1, 1991, as our postconviction remedy. *In the Matter of the Reinstatement of Rule 37 of the Arkansas Rules of Criminal Procedure*, 303 Ark. Appx. 746, 797 S.W.2d 458 (1990) (*per curiam*).

Pitts v. State, 336 Ark. 580, 986 S.W.2d 407 (1999) (*per curiam*). We have held that a writ of error *coram nobis* was available to address certain fundamental errors that are found in one of four categories: insanity at the time of trial, a coerced guilty plea, material evidence withheld by the prosecutor, or a third-party confession to the crime during the time between conviction and appeal. *Pitts, supra*, citing *Penn v. State*, 282 Ark. 571, 670 S.W.2d 426 (1984). After reviewing the instant petition, we do not find that petitioner has stated good cause to grant leave to proceed with a petition for writ of error *coram nobis* in the trial court. Accordingly, the petition is denied.

The sole ground for relief advanced by petitioner is the claim that he was denied effective assistance of counsel at trial and in the postconviction proceeding in his case. With respect to the claim as it relates to trial counsel, it is well settled that claims of ineffective assistance of trial counsel are outside the purview of a *coram nobis* proceeding. *McArty v. State*, 335 Ark. 445, 983 S.W.2d 418 (1998) (*per curiam*). Any allegations pertaining to the representation afforded by counsel at trial should have been raised by petitioner in his Rule 36.4 petition for postconviction relief.

Petitioner's assertion that the attorney who represented him in his postconviction proceeding was ineffective is also not cognizable in a *coram nobis* proceeding. Moreover, even if a *coram nobis* proceeding were the proper forum to address a claim of ineffective assistance of counsel, there is no right to counsel in a postconviction proceeding and thus no right to effective assistance of counsel in such a proceeding. See *Pennsylvania v. Finley*, 481 U.S. 551 (1987); see also *Dyer v. State*, 258 Ark. 494, 527 S.W.2d 622 (1975).

Petition denied.